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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,520	05/13/2009	Hans-dieter Bothe	10191/4373	4505
26646 7590 01/25/2012 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER BRYANT, MICHAEL C				
ART UNIT 2884		PAPER NUMBER		
MAIL DATE 01/25/2012		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/585,520

**Applicant(s)**

BOTHE ET AL.

**Examiner**

CASEY BRYANT

**Art Unit**

2884

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 13-18, 20, 21 and 23-27 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 13-18, 20, 21 and 23-27 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-806)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s) Mail Date \_\_\_\_

### **DETAILED ACTION**

Inventor: Bothe et al.

Serial: 10/585520

Attorney: Jong Lee (Reg. No. 30197)

Filing: Amendment submitted 10/31/2011

#### **Status of Claims**

1. Claims 1-12, 19 and 22 have been cancelled. Claims 13, 14, 23 and 25 have been amended. Claims 13-18, 20, 21, and 23-27 remain currently pending.

#### **Response to Remarks**

2. In view of the applicant's amendments to claims, the arguments are moot. A new grounds of rejection have been presented below in view of Steed et al. (US Patent 6151065).

#### **Claim Objections**

3. Claims 23 and 25 recite the phrase, "the unit" in the last line of the claims, but should probably read --the system--.

#### **Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13-15, 17, 18, 23-25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Steed et al. (US Patent 6151065).

Regarding claims 13, 23 and 25, Steed discloses an imaging system (Figure 5) comprising:

- an imaging module including:

Art Unit: 2884

- o an artificial light source (light bulbs 10/12), and
  - o a radiation sensitive sensor surface (camera 2);
- a housing (base 8/lens cover 14), wherein the housing is a completely enclosed integral unit, and wherein the imaging module is fully enclosed within the housing; and
- a lens system, the module operating with the lens system and wherein the lens system is an integral component of the housing (lens system integrally fits into aperture of lens cover 14)(Figures 1-5; col. 3, line 50 - col. 4, line 39).

Regarding claim 14, Steed discloses wherein the unit is a sensor device detecting visible EM radiation (CCD)(col. 3, 35-40).

Regarding claims 15, 24 and 27, Steed discloses system is a subunit capable of use in a passenger compartment of a motor vehicle (col. 3, 41-49).

Regarding claim 17, the method of forming a device is not germane to the issue of patentability of the device itself. The recited manufacturing method does not structurally limit the claim and therefore does not carry patentable weight. Furthermore, the housing of Steed is capable of being formed by injection molding (plastic housing)(col. 3, 5064-65).

Regarding claim 18, Steed discloses a housing part containing the lens system is part of an interior lining of a motor vehicle (inside rear view mirror)(Figure 10).

#### **Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the

Art Unit: 2884

various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steed et al. (US Patent 6151065) in view of Sato (US Pub. 20040251993) and Fujikawa et al. (US Pub. 20030214733).

Regarding claim 16, Steed discloses system comprising an IR source, but does not specifically disclose the detector camera as a near infrared camera. Sato discloses a similar system to that of Steed comprising a near infrared source and camera imaging system (abstract; Figure 1). In view of the improved low-light imaging provided by the near infrared imaging system of Sato, it would have been obvious to combine with the teachings of Steed. Steed does not disclose the near infrared imaging system comprising a lens system transparent to infrared and opaque to visible radiation. Fujikawa discloses a system similar to that of Steed and Sato comprising an optical system transparent to near-IR radiation and opaque to visible light (near-IR transmitting filter 10)(0034). In view of the signal reduced noise produced by the near-IR detector in the device of Fujikawa, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine with the teachings of Steed and Sato.

9. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steed et al. (US Patent 6151065) in view of Sato (US Pub. 20040251993).

Regarding claim 20 and 21, Steed discloses light sources as lamps but does not disclose the sources comprising LED lamps. Sato discloses infrared sources comprising IR

Art Unit: 2884

LEDs (0031). In view of the spatial and energy efficiency of LEDs taught by Sato, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine with the teachings of Steed.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steed et al. (US Patent 6151065) in view of Eggers et al. (US Pub. 20060038885).

Regarding claim 26, Steed does not disclose providing a stereo camera system.

Eggers discloses an infrared stereo camera system for use in a motor vehicle for tracking objects in an operator environment (0004, 0012). In view of the ability to electronically identify objects in low light environments with depth of field as taught by Eggers, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine with the teachings of Steed.

### **Conclusion**

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2884

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CASEY BRYANT whose telephone number is (571)270-1282. The examiner can normally be reached on Monday - Friday, 8am - 5pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (571)272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David P. Porta/  
Supervisory Patent Examiner, Art  
Unit 2884

/C. B./  
Examiner, Art Unit 2884